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The role of diamonds in fuelling conflict

Letter dated 9 December 2003 from the Permanent Representative of South Africa to the United Nations addressed to the President of the General Assembly

I have the honour to transmit herewith the final report of the Kimberley Process Certification Scheme. You may recall that the General Assembly, in operative paragraph 9 of its resolution 57/302 of 15 April 2003, requested the countries participating in the Kimberley Process Certification Scheme to report to it at its fifty-eighth session on progress made with regard to the implementation of the Kimberley Process Certification Scheme for rough diamonds.

In the same resolution 57/302, the General Assembly also took a decision to include in the provisional agenda of its fifty-eighth session the item entitled "The role of diamonds in fuelling conflict". The attached report was adopted in the two plenary meetings of the Kimberley Process Certification Scheme, both of which were held in South Africa. Upon completion of the translation process, it is expected that this issue will be considered by the General Assembly at its resumed fifty-eighth session in early 2004.

I kindly request that the Kimberley Process Certification Scheme report be circulated as a document of the General Assembly, which will be followed by a debate on a date to be determined. My Mission, in its capacity as the outgoing Chair, together with the Permanent Mission of Canada to the United Nations, in its capacity as incoming Chair of the Kimberley Process Certification Scheme, are currently in the process of holding informal consultations on a consensus draft resolution to be adopted immediately after the General Assembly debate on the question.

I have the honour to enclose herewith a comprehensive report of the Kimberley Process for your consideration in an attempt to keep the General Assembly informed of developments achieved through this process (see annex).

(*Signed*) Dumisani S. **Kumalo**
Ambassador
Permanent Representative

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Annex to the letter dated 9 December 2003 from the Permanent Representative of South Africa to the United Nations addressed to the President of the General Assembly

Report of the Kimberley Process Certification Scheme (KPCS) to the United Nations General Assembly as per resolution 57/302 of 15 April 2003

The role of diamonds in fuelling conflict: breaking the link between the illicit transaction of rough diamonds and armed conflict as a contribution to prevention and settlement of conflicts

Introduction

Operative paragraph 9 of the United Nations General Assembly (UNGA) Resolution 57/302 (2003) requests the Chair of the Kimberley Process Certification Scheme (KPCS) for rough diamonds to present to the UNGA at its 58th Session, a report on progress made with regard to the implementation of the Scheme. Resolution 57/302 also records the decision by the General Assembly to include in the provisional agenda of its 58th session the item entitled "The role of diamonds in fuelling conflict".

Objectives of the Kimberley Process

The KPCS is a tripartite international technical negotiating forum comprising states, the diamond industry and civil society. It is a voluntary scheme, implemented by rough diamond producing and trading countries. The KPCS is based on a system of internal controls and regulated by national legislation. A voluntary system of industry self-regulation further underpins the Scheme.

The international implementation of the KPCS continues to be guided by the objectives on which it was founded as a result of the initiatives taken by Southern African diamond-producing countries in 2000, namely:

(a) Stem the flow of rough diamonds used by rebels to finance armed conflict aimed at overthrowing legitimate governments, thereby making a substantial contribution to international peace and security; and

(b) Protect the legitimate diamond trade, upon which many countries are dependent for their economic and social development.

The KPCS seeks to achieve the above through the creation and implementation of an international certification scheme for rough diamonds, based primarily on national certification schemes and on internationally agreed minimum standards.

Progress achieved

1. The simultaneous international implementation of the KPCS started on 1 January 2003. In recognition of implementation challenges being faced by certain countries, a "tolerance period" for national implementation of the KPCS was extended to 31 May 2003.

2. On 15 May 2003 the World Trade Organisation's General Council approved that a waiver be granted to those countries implementing the KPCS and indicating that they required such a waiver.

3. A Review Mission visited the Central African Republic from 8 to 15 June 2003, and reported that they were satisfied with that country's ability and capacity to implement the KPCS, while, at the same time, offering constructive suggestions for the strengthening of internal monitoring and controls.

4. The various Working Groups of the KPCS have functioned effectively and are helping to strengthen the implementation of the Scheme. In particular, a recommendation was adopted that provides for the establishment of a peer review mechanism for monitoring implementation of the Scheme. Based on a combination of self-reporting and the use of 'review visits' and 'review missions' to Participants, this peer review mechanism will help guarantee that the provisions of the KPCS are effectively implemented by all Participants.

5. The further widening of participation in the KPCS and the overall strengthening of the Scheme was encouraged and facilitated. Several administrative and implementation issues were successfully addressed during 2003. Participation in the KPCS has increased significantly.

6. South Africa has been chairing the KPCS since its inception in May 2000. The Chair will pass to Canada on 1 January 2004 for one year, after which it will pass to the Russian Federation, the 2004 Vice Chair, for the 2005 calendar year.

Participation in the Kimberley Process

A Participation Committee was established to examine the documentation provided by Participants in order to determine whether they meet the minimum standards of the Kimberley Process. The following States and Regional Economic Integration Organisations were certified on 31 October 2003 as Participants in the KPCS, having satisfied the minimum requirements of the Scheme:

1. Angola
2. Armenia
3. Australia
4. Belarus
5. Botswana
6. Brazil
7. Bulgaria
8. Canada
9. Central African Republic
10. China, People's Republic of
11. Congo, Democratic Republic of
12. Congo, Republic of
13. Cote D' Ivoire
14. Croatia
15. European Community
16. Guinea
17. Guyana

18. Hungary
19. India
20. Israel
21. Japan
22. Korea, Republic of
23. Laos, People's Republic of
24. Lebanon
25. Lesotho
26. Malaysia
27. Mauritius
28. Namibia
29. Poland
30. Romania
31. Russian Federation
32. Sierra Leone
33. Slovenia
34. South Africa
35. Sri Lanka
36. Switzerland
37. Tanzania
38. Thailand
39. Togo
40. Ukraine
41. United Arab Emirates
42. United States of America
43. Venezuela
44. Vietnam
45. Zimbabwe

In addition, the rough diamond trading entity known as Chinese Taipei was also assessed to have met the minimum requirements of the KPCS and began implementing the Scheme with effect from 10 May 2003, within the context of ongoing consultations regarding the definitions of a Participant and an Observer.

Several other States have submitted notices of intent to become Participants in the KPCS in the near future and are in the process of submitting the relevant documentation to the Participation Committee.

The organised diamond industry represented by the World Diamond Council, and civil society organisations remain actively involved in the KPCS and attended Plenary meetings as Observers.

Meetings held

As the Chair, South Africa hosted two successful Plenary meetings of the KPCS since the adoption of Resolution 57/302 (2003):

In Johannesburg, South Africa, from 28 to 30 April 2003; and

In Sun City, South Africa, from 29 to 31 October 2003.

The joint communiqués that outline the proceedings and the decisions that were taken in Johannesburg and Sun City are attached as Annexes 1 and 2, respectively.

Conclusion

The Kimberley Process continues to enjoy widespread, growing support and now represents all major diamond producing, trading and processing countries. Those states that have yet to meet the minimum requirements for participation in the KPCS are strongly encouraged to continue with their efforts to do so. Full international implementation of the KPCS will help detect and prevent the trade in conflict diamonds. As the outgoing Chair, South Africa wishes to express its gratitude and thanks to all representatives involved in the KPCS, whether as Participants, Applicants or Observers, for their continued resolve to curb the trade in conflict diamonds.

It is hoped that the United Nations will continue to support implementation of the KPCS. The KPCS itself helps to ensure the effective implementation of relevant Resolutions of the United Nations Security Council pertaining to trade in conflict diamonds. In so doing, the KPCS is making a valuable contribution to the promotion of international peace and security. The progress achieved in international implementation of the KPCS thus far bears testimony to what can be achieved in the international arena, all the more so in this unique partnership between governments, the diamond industry and civil society, with all parties united in their determination to ensure that full international implementation is achieved and maintained.

Ongoing support for the KPCS also helps to promote the legitimate diamond trade, upon which a significant number of countries are dependent for their economic and social development.

Annex 1

FINAL COMMUNIQUE

KIMBERLEY PROCESS PLENARY MEETING

JOHANNESBURG, 28-30 APRIL 2003

The Participants in the Kimberley Process Certification Scheme (KPCS) met in Johannesburg, South Africa from 28 to 30 April 2003, to deliberate on matters pertaining to the implementation of the KPCS, which started on 1 January 2003. Fifty-one (51) states and one Regional Economic Integration Organisation, the European Community, are currently participating in the Kimberley Process Certification Scheme. Attending the Plenary meeting as Observers to the KPCS, were six non-participating states and representatives from the World Diamond Council and civil society. The Participants and Observers expressed their gratitude to the Kimberley Process Chair, South Africa, for hosting the meeting and for the warm hospitality they had enjoyed.

Participants welcomed the resolutions adopted respectively by the United Nations Security Council in January and by the United Nations General Assembly in April 2003, which expressed strong support for the KPCS. Several implementation issues were identified and referred to working groups for discussion.

In recognition of the difficulties experienced by various Participants in implementing the KPCS, Participants adopted an administrative decision on a final extension of the period of tolerance in terms of which the list of Participants will be confirmed. Relevant documentation submitted by 31 May will be assessed by the Chair who, having issued an updated list by 5 May, will issue a revised list by 10 June 2003. On the basis of the documentation submitted, the newly-created Participation Committee will make a recommendation thereon to the Chair on whether this list should be finally confirmed, at the latest by 31 July 2003.

The working group on Rules of Procedure produced a detailed draft text setting out rules for meetings of the Plenary and its subordinate bodies. With the exception of one issue relating to Decision Making, this text was adopted ad referendum by Plenary. Further consultations are required to resolve the final point. The group's separate draft statement setting up a written procedure for decision-making out of sessions was also agreed.

The working group on Monitoring and Control compiled terms of reference for the Participation Committee, which were adopted by Plenary. The guideline document for the peer review mechanism will be discussed further electronically with members of the working group, circulated to Participants and subsequently tabled at the next Plenary meeting.

The working group on Statistics prepared a series of detailed recommendations that will permit the initiation of the collection of statistics describing international trade in rough diamonds for the first quarter of 2003. These recommendations were adopted by the Plenary. In addition, a detailed terms of reference document to guide the activities of the working group was adopted. This working group will continue to collaborate in order to plan and implement the overall statistics collection and analysis strategy for the Kimberley Process and to address operational and conceptual issues that arise.

The working group on Diamond Experts discussed ways and means of improving the manner in which the national certification schemes of Participants interact. It also identified areas where the working group will have to discuss and submit detailed proposals in advance of the next Plenary meeting. The working group submitted a text to the Plenary containing terms of reference, to guide current and future activities of the working group, and several guidelines that were subsequently amended and adopted by the Plenary.

The Plenary considered the status of implementation of the KPCS by the Central African Republic since the events related to the change of Government on 15 March 2003 and, at the invitation of the authorities, decided to send a review mission to that country. The terms of reference of the review mission were agreed. The review mission will take place not later than 16 June 2003, and will consist of a committee of five, three Participants and two Observers. Based on the report of the review mission, the Chair will present a proposal on the status of the Central African Republic in the KPCS to the Participants in compliance with Section VI, 15.

The Plenary also considered the Republic of Liberia's indication that it would like to become a Participant in the KPCS. In view of the existing United Nations Security Council embargo against trade in diamonds with Liberia, an application to become a Participant may only be considered once the diamond trade embargo has been lifted. The Liberian Government has invited the Kimberley Process to send a review mission to Liberia as soon as possible.

The Plenary also considered the way forward for the KPCS and agreed that another Plenary meeting in October 2003, would be necessary to attend to implementation issues. This meeting will be hosted by the Chair. Each Participant would re-double their efforts to achieve optimal implementation results.

Annex 2

FINAL COMMUNIQUE

KIMBERLEY PROCESS PLENARY MEETING

SUN CITY, SOUTH AFRICA, 29-31 OCTOBER 2003

The Participants in the Kimberley Process Certification Scheme for rough diamonds (KPCS) met in Sun City, Northwest Province, South Africa from 29 to 31 October 2003, to discuss the effectiveness of the implementation of the KPCS. International implementation of the KPCS started on 1 January 2003. In recognition of the difficulties that were experienced by some countries during the early months of 2003 to meet the minimum requirements for implementation, the Plenary understood that, in terms of paragraph 20 of the KPCS document, a review of the Certification Scheme should take place not later than 31 July 2006.

The Chair welcomed the addition of three further countries to the list of KPCS Participants, namely Brazil, Romania and Togo. A total of forty-five (45) states and one Regional Economic Integration Organisation (the European Community) are now participating in the KPCS. A further twenty (20) Applicant states have declared their intention to participate in the KPCS and are currently in the process of putting into place the necessary arrangements to meet the requirements of the KPCS. The World Diamond Council, representing industry, and representatives of civil society attended the Plenary as Observers. All parties expressed their gratitude to South Africa, the outgoing Chair, for hosting the meeting and for the warm hospitality extended to them during their deliberations.

The Chair stressed the need to continue to strengthen the KPCS, in order to ensure that the momentum that has been built up thus far is not lost. South Africa was pleased to have been entrusted with the task of bringing together governments, business and civil society in a unique forum and the Chair thanked all parties for the constructive cooperation and support given by them during this process.

Participants amended the Rules of Procedure of the KPCS to promote continuity by providing for the Vice Chair of the KPCS, on completion of twelve months in office, to become the Chair in the following year. The Plenary selected Canada as the Chair of the KPCS for 2004. The Russian Federation was selected as the Vice Chair for 2004 and will therefore become the Chair for 2005. Canada accepted the Chair for a one-year period beginning on 1 January 2004, after the term of South Africa ends on 31 December 2003. Canada pledged to continue to build on the remarkable achievements of the Kimberley Process under the leadership of South Africa. Canada declared its intention to work in co-operation with the Russian Federation, as the new Vice Chair of the KPCS.

The Plenary considered a report by the Review Mission that was mandated to visit the Central African Republic from 8 to 15 June 2003, in order to assess the effectiveness of KPCS control measures. The Review Mission reported that they were satisfied with the Central African Republic's ability and capacity to implement the KPCS, while encouraging the further strengthening of internal monitoring and controls. The Plenary expressed its appreciation to the relevant authorities of the Central African Republic for the excellent co-operation and assistance provided to the members of the Review Mission, as well as to the members of the Review

Mission themselves for the constructive and professional manner in which they conducted their task. The Plenary noted that the success of the Review Mission bears testimony to the significant progress that has been made with the international implementation of the KPCS.

Several administrative and implementation issues were discussed by various KPCS Working Groups. A major breakthrough was achieved when the Plenary accepted a recommendation by the Working Group on Monitoring for the establishment of a peer review mechanism to guarantee that the provisions of the KPCS are effectively implemented by all Participants. The agreement establishes a comprehensive framework for monitoring implementation of the Scheme, based on a combination of reporting and the use of 'review visits' and 'review missions' to Participants. The framework includes a clear requirement for all Participants to report on an annual basis on their implementation of the Scheme, on the basis of a uniform questionnaire also agreed by Plenary. The framework also provides for the establishment of a system of review visits to Participants to assess implementation of the Scheme. While these visits will take place on a voluntary basis, the Plenary agreed that it would be 'desirable for the largest number of Participants possible to volunteer to receive a review visit' by 2006. The Democratic Republic of Congo and the Republic of Congo indicated their desire to hold bilateral discussions on statistics and, in principle, to host review visits during the coming year. Other Participants have also volunteered to host review visits. The use of review missions in cases where there are credible indications of significant non-compliance by a Participant with the KPCS will continue. Implementation of the decision will begin immediately under the responsibility of the Chair of the Kimberley Process, assisted by the Working Group on Monitoring.

Over the last six months, the reporting of statistics required in terms of the KPCS was initiated and is now ongoing. The Plenary endorsed recommendations prepared by the Working Group on Statistics to address issues relating to failure to provide statistical data and to deal with deficiencies in the quality of the data submitted. The Working Group has developed a draft action plan that will provide guidelines for statistical activities until the next regular Plenary. Under this plan, the Working Group will collaborate closely to address operational, conceptual and analytical issues that arise and will move forward towards preparing the KPCS statistical database required to support the implementation of the KPCS.

The Working Group of Diamond Experts and Technical Issues met in order to solve remaining implementation issues and discuss how the expertise of the Working Group can be made to benefit the efficiency of the KPCS, for instance by providing technical assistance to Participants. Revised Terms of Reference and several refinements on technical guidelines were adopted by the Plenary. A document on the valuation of sample shipments, submitted by Australia with contributions from Canada, was discussed in the Working Group and distributed to the Plenary for further study.

The Working Group of Diamond Experts and Technical Issues and the Working Group on Statistics met jointly to discuss ambiguities in the HS harmonised coding system and the consequences of classification divergences on the implementation of the KPCS and the accuracy of statistical reporting. Both Working Groups requested and received a strong mandate from the Plenary to approach the World Customs Organization and suggest possible solutions to classification uncertainties.

The decisions taken by the Plenary will be considered to have been formally adopted once they have been translated into the official languages of the Plenary (English,

French, Portuguese, Spanish and Russian), in accordance with Rule 26 of the KPCS Rules of Procedure, and made available to all Participants.

The Plenary considered a presentation by the Peoples' Republic of China on the development of an internal internet-based management system which is being used exclusively to facilitate the implementation of the KPCS.

The Plenary thanked the outgoing Chair for providing effective leadership to the KPCS. Participants and Observers undertook to continue to strive to achieve and maintain full and effective implementation of the KPCS, the results of which are critical to the success and credibility of the Certification Scheme.